

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Criminal Action No. 5:05CR42-01
(STAMP)

MICHAEL A. MORGAN a/k/a "STEVE,"

Defendant.

ORDER MEMORIALIZING BENCH ORDER
ACCEPTING AND ADOPTING REPORTS AND RECOMMENDATIONS
REGARDING DEFENDANT MORGAN'S PRETRIAL MOTIONS AND
DIRECTING THE UNITED STATES TO RESPOND TO DEFENDANT
MORGAN'S MOTION TO REMOVE HIS ATTORNEY

On December 12, 2005, defendant Morgan appeared with his counsel at a pretrial conference in the above-styled criminal action. This Court converted the pretrial conference into a status and scheduling conference, granted defendant Morgan's motion to continue the trial and addressed the following reports and recommendations that concerned defendant Morgan and were entered by United States Magistrate Judge James E. Seibert:

1. On October 7, 2005, the defendant filed a motion to suppress the statements of co-defendants and on October 20, 2005, defendant Morgan filed an amended motion to suppress statements of co-defendants. On November 16, 2005, Magistrate Judge Seibert entered a report and recommendation that motions to suppress statements of co-defendants and amended motion to suppress statements of co-defendants be denied as moot because the only co-defendant who gave a statement against defendant Morgan was defendant Terri Blankenship, who has pleaded guilty, and who will

testify against defendant Morgan and will be subject to cross-examination.

2. On October 7, 2005, the defendant Morgan filed a motion to suppress the 911 calls. On November 16, 2005, the magistrate judge entered a report and recommendation that the motion to suppress the 911 calls be determined by the trial court at the trial.

3. On October 7, 2005, defendant Morgan filed a motion to suppress the evidence seized by the United States on September 15, 2005. On November 16, 2005, the magistrate judge entered a report and recommendation that evidence obtained in the search not be suppressed indicating that Misty Johnson, a lessee of the premises in question, had authority and executed a written consent to the search of the premises.

4. On October 7, 2005, defendant filed a motion to join in relief afforded to co-defendants. On November 16, 2005, the magistrate judge entered an order granting the motion for leave to join in relief afforded to co-defendants by their motion.

5. On October 7, 2005, the defendant entered a motion to suppress statements made by the defendant after his arrested while he was seated in Wheeling Police Department cruiser with Officers Criswell and Nolan. On November 16, 2005, the magistrate judge entered a report and recommendation that the motion to suppress statements of the defendant be denied because the statements were

voluntarily made after the defendant was advised of his Miranda rights.

No objections were filed by the defendant or the government regarding any of the above reports and recommendations made by the magistrate judge. Accordingly, this Court accepted and adopted the reports and recommendations listed above.

On October 21, 2005, defendant's counsel Patricia Kutsch, filed a motion for leave to withdraw from further representation of the defendant in matters pending in the above-styled criminal action. On November 16, 2005, the magistrate judge entered an order confirming the pronounced order of the Court denying defendant's counsel's motion for leave to withdraw. On December 2, 2005, the defendant filed a "Motion: Remove Attorney Patricia Valentino Kutsch in United States of America Criminal Action Case No. 5:05CR42-01." At the conference, this Court asked the defendant Morgan if he intended his December 2, 2005 motion to be an objection to the magistrate judge's order denying Kutsch leave to withdraw. The defendant indicated that he did not intend his motion to be an objection but a separate motion for new counsel. Accordingly, the order confirming the pronounced order of the Court denying motion for leave to withdraw is affirmed without objection. The United States is ORDERED to file a response on or before **December 21, 2005** to defendant Morgan's December 2, 2005 motion for new counsel and the motion is referred to Magistrate Judge Seibert for disposition.

IT IS SO ORDERED.

The Clerk is directed to transmit a copy of this order to the defendant and to counsel of record herein.

DATED: December 13, 2005

/s/ Frederick P. Stamp, Jr.
FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE